

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

IN THE CLAIMS:

Claims 16-27 were cancelled without prejudice.

Claims 1, 8, 12 were amended as follows:

Claim 1. (currently amended) A plant comprising at least one recombinant promoter promoting a specific level of expression and a gene operably linked to the promoter, wherein the promoter has [a]the sequence set forth in SEQ ID NO: 1.

Claim 8. (currently amended) A recombinant promoter promoting a specific level of expression, wherein the promoter has [a]the sequence set forth in SEQ ID NO: 1.

Claim 12. (currently amended) An expression cassette comprising [a]the promoter of claim 8.

Authorization for this examiner's amendment was given in a telephone interview with Susan Meyers Fitch on 10/10/2008.

All rejections of record are obviated by Amendments and arguments made by Applicants in the reply filed on 01/16/2008, when taken together with the Examiner's amendment above. The objection to the drawings is obviated by the amendment to the specification for purposes of clarification, made by Applicants in the Reply filed 01/16/2008.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent Page whose telephone number is (571)-272-5914. The examiner can normally be reached on Monday-Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571)-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David H Kruse/
Primary Examiner, Art Unit 1638
23 October 2008